

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition
to Revoke Probation Against:

DEBORAH MONTRESSA HOLMAN
6901 Riverside Blvd.
Sacramento, CA 95831
Registered Nursing License No. 698941

Respondent

Case No. 2010-176

OAH No.
2009110159

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order are hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

NOTE: The following technical error in the Stipulated Settlement and Disciplinary Order are corrected, as follows: Page 4, line 7 should read as "revocation."

This Decision shall become effective on July 15, 2010.

IT IS SO ORDERED June 15, 2010.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

13 **DEBORAH MONTRESSA HOLMAN**
14 **6901 Riverside Blvd.**
15 **Sacramento, CA 95831**
Registered Nurse License No. 698941

16 Respondent.

Case No. 2010-176

OAH No. 2009110159

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
22 Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
24 by Elena L. Almanzo, Deputy Attorney General.

25 2. Respondent Deborah Montressa Holman (Respondent) is represented in this
26 proceeding by attorney Paul Chan, whose address is 2310 J Street, Suite A
27 Sacramento, CA 95816.
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3. On or about March 1, 2007, the Board of Registered Nursing issued Registered Nurse License No. 698941 to Deborah Montressa Holman (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in the Accusation and Petition to Revoke Probation No. 2010-176 and will expire on June 30, 2010, unless renewed.

JURISDICTION

4. Accusation and Petition to Revoke Probation No. 2010-176 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on October 7, 2009. Respondent timely filed her Notice of Defense contesting the Accusation and Petition to Revoke Probation. A copy of Accusation and Petition to Revoke Probation No. 2010-176 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation and Petition to Revoke Probation No. 2010-176. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation and Petition to Revoke Probation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 13. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that the revocationuy of Registered Nurse License No. 698941
8 issued to Respondent Deborah Montressa Holman (Respondent) shall be reimposed. However,
9 the revocation is stayed and Respondent's probation shall be extended for a period of three (3)
10 years on the following terms and conditions from the effective date of this decision.

11 **Severability Clause.** Each condition of probation contained herein is a separate and
12 distinct condition. If any condition of this Order, or any application thereof, is declared
13 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
14 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
15 and enforceable to the fullest extent permitted by law.

16 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A
17 full and detailed account of any and all violations of law shall be reported by Respondent to the
18 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
19 compliance with this condition, Respondent shall submit completed fingerprint forms and
20 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
21 as part of the licensure application process.

22 **Criminal Court Orders:** If Respondent is under criminal court orders, including
23 probation or parole, and the order is violated, this shall be deemed a violation of these probation
24 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

25 2. **Comply with the Board's Probation Program.** Respondent shall fully
26 comply with the conditions of the Probation Program established by the Board and cooperate with
27 representatives of the Board in its monitoring and investigation of the Respondent's compliance
28 with the Board's Probation Program. Respondent shall inform the Board in writing within no

1 more than 15 days of any address change and shall at all times maintain an active, current license
2 status with the Board, including during any period of suspension.

3 Upon successful completion of probation, Respondent's license shall be fully restored.

4 3. **Report in Person.** Respondent, during the period of probation, shall
5 appear in person at interviews/meetings as directed by the Board or its designated representatives.

6 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
7 or practice as a registered nurse outside of California shall not apply toward a reduction of this
8 probation time period. Respondent's probation is tolled, if and when she resides outside of
9 California. Respondent must provide written notice to the Board within 15 days of any change of
10 residency or practice outside the state, and within 30 days prior to re-establishing residency or
11 returning to practice in this state.

12 Respondent shall provide a list of all states and territories where she has ever been licensed
13 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
14 information regarding the status of each license and any changes in such license status during the
15 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
16 license during the term of probation.

17 5. **Submit Written Reports.** Respondent, during the period of probation,
18 shall submit or cause to be submitted such written reports/declarations and verification of actions
19 under penalty of perjury, as required by the Board. These reports/declarations shall contain
20 statements relative to Respondent's compliance with all the conditions of the Board's Probation
21 Program. Respondent shall immediately execute all release of information forms as may be
22 required by the Board or its representatives.

23 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
24 state and territory in which she has a registered nurse license.

25 6. **Function as a Registered Nurse.** Respondent, during the period of
26 probation, shall engage in the practice of registered nursing in California for a minimum of 24
27 hours per week for 6 consecutive months or as determined by the Board.

28 For purposes of compliance with the section, "engage in the practice of registered nursing"

1 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
2 non-direct patient care position that requires licensure as a registered nurse.

3 The Board may require that advanced practice nurses engage in advanced practice nursing
4 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

5 If Respondent has not complied with this condition during the probationary term, and
6 Respondent has presented sufficient documentation of her good faith efforts to comply with this
7 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
8 extension of Respondent's probation period up to one year without further hearing in order to
9 comply with this condition. During the one year extension, all original conditions of probation
10 shall apply.

11 **7. Employment Approval and Reporting Requirements.** Respondent shall
12 obtain prior approval from the Board before commencing or continuing any employment, paid or
13 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
14 performance evaluations and other employment related reports as a registered nurse upon request
15 of the Board.

16 Respondent shall provide a copy of this Decision to her employer and immediate
17 supervisors prior to commencement of any nursing or other health care related employment.

18 In addition to the above, Respondent shall notify the Board in writing within seventy-two
19 (72) hours after she obtains any nursing or other health care related employment. Respondent
20 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
21 separated, regardless of cause, from any nursing, or other health care related employment with a
22 full explanation of the circumstances surrounding the termination or separation.

23 **8. Supervision.** Respondent shall obtain prior approval from the Board
24 regarding Respondent's level of supervision and/or collaboration before commencing or
25 continuing any employment as a registered nurse, or education and training that includes patient
26 care.

27 Respondent shall practice only under the direct supervision of a registered nurse in good
28 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods

of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an

1 instructor in a Board approved continuing education program.

2 Respondent shall work only on a regularly assigned, identified and predetermined
3 worksite(s) and shall not work in a float capacity.

4 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
5 request documentation to determine whether there should be restrictions on the hours of work.

6 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
7 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
8 than six months prior to the end of her probationary term.

9 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
10 Respondent shall submit to the Board the original transcripts or certificates of completion for the
11 above required course(s). The Board shall return the original documents to Respondent after
12 photocopying them for its records.

13 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
14 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
15 amount of \$585.75. Respondent shall be permitted to pay these costs in a payment plan approved
16 by the Board, with payments to be completed no later than three months prior to the end of the
17 probation term.

18 If Respondent has not complied with this condition during the probationary term, and
19 Respondent has presented sufficient documentation of her good faith efforts to comply with this
20 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
21 extension of Respondent's probation period up to one year without further hearing in order to
22 comply with this condition. During the one year extension, all original conditions of probation
23 will apply.

24 12. **Violation of Probation.** If Respondent violates the conditions of her
25 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
26 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

27 If during the period of probation, an accusation or petition to revoke probation has been
28 filed against Respondent's license or the Attorney General's Office has been requested to prepare

1 an accusation or petition to revoke probation against Respondent's license, the probationary
2 period shall automatically be extended and shall not expire until the accusation or petition has
3 been acted upon by the Board.

4 13. **License Surrender.** During Respondent's term of probation, if she ceases
5 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
6 probation, Respondent may surrender her license to the Board. The Board reserves the right to
7 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
8 take any other action deemed appropriate and reasonable under the circumstances, without further
9 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
10 longer be subject to the conditions of probation.

11 Surrender of Respondent's license shall be considered a disciplinary action and shall
12 become a part of Respondent's license history with the Board. A registered nurse whose license
13 has been surrendered may petition the Board for reinstatement no sooner than the following
14 minimum periods from the effective date of the disciplinary decision:

15 (1) Two years for reinstatement of a license that was surrendered for any reason other
16 than a mental or physical illness; or

17 (2) One year for a license surrendered for a mental or physical illness.

18 14. **Participate in Treatment/Rehabilitation Program for Chemical**
19 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
20 period or shall have successfully completed prior to commencement of probation a Board-
21 approved treatment/rehabilitation program of at least six months duration. As required, reports
22 shall be submitted by the program on forms provided by the Board. If Respondent has not
23 completed a Board-approved treatment/rehabilitation program prior to commencement of
24 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
25 a program. If a program is not successfully completed within the first nine months of probation,
26 the Board shall consider Respondent in violation of probation.

27 Based on Board recommendation, each week Respondent shall be required to attend at least
28 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,

1 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
2 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
3 added. Respondent shall submit dated and signed documentation confirming such attendance to
4 the Board during the entire period of probation. Respondent shall continue with the recovery plan
5 recommended by the treatment/rehabilitation program or a licensed mental health examiner
6 and/or other ongoing recovery groups.

7 15. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
8 shall completely abstain from the possession, injection or consumption by any route of all
9 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
10 the same are ordered by a health care professional legally authorized to do so as part of
11 documented medical treatment. Respondent shall have sent to the Board, in writing and within
12 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
13 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
14 medication will no longer be required, and the effect on the recovery plan, if appropriate.

15 Respondent shall identify for the Board a single physician, nurse practitioner or physician
16 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
17 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
18 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
19 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
20 considered addictive have been prescribed, the report shall identify a program for the time limited
21 use of any such substances.

22 The Board may require the single coordinating physician, nurse practitioner, or physician
23 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
24 medicine.

25 16. **Submit to Tests and Samples.** Respondent, at her expense, shall
26 participate in a random, biological fluid testing or a drug screening program which the Board
27 approves. The length of time and frequency will be subject to approval by the Board.
28 Respondent is responsible for keeping the Board informed of Respondent's current telephone

1 number at all times. Respondent shall also ensure that messages may be left at the telephone
2 number when she is not available and ensure that reports are submitted directly by the testing
3 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
4 to the Board by the program and Respondent shall be considered in violation of probation.

5 In addition, Respondent, at any time during the period of probation, shall fully cooperate
6 with the Board or any of its representatives, and shall, when requested, submit to such tests and
7 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
8 hypnotics, dangerous drugs, or other controlled substances.

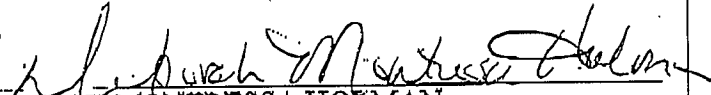
9 If Respondent has a positive drug screen for any substance not legally authorized and not
10 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
11 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
12 practice pending the final decision on the petition to revoke probation or the accusation. This
13 period of suspension will not apply to the reduction of this probationary time period.

14 If Respondent fails to participate in a random, biological fluid testing or drug screening
15 program within the specified time frame, Respondent shall immediately cease practice and shall
16 not resume practice until notified by the Board. After taking into account documented evidence
17 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
18 suspend Respondent from practice pending the final decision on the petition to revoke probation
19 or the accusation. This period of suspension will not apply to the reduction of this probationary
20 time period.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently; and agree to be bound by the Decision and Order of the Board of Registered Nursing.

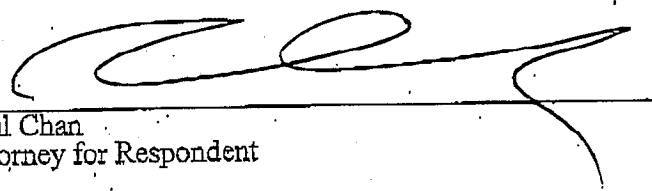
DATED: 3-16-10


DEBORAH MONTRESSA HOLMAN
Respondent

I have read and fully discussed with Respondent Deborah Montressa Holman the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

I approve its form and content.

DATED: 3-16-10


Paul Chan
Attorney for Respondent


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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 3/17/2010

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
ARTHUR TAGGART
Supervising Deputy Attorney General


ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. 2010-176

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2 ARTHUR D. TAGGART
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7 *Attorneys for Complainant*

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

13 **DEBORAH MONTRESSA HOLMAN**
14 **6901 Riverside Blvd.**
Sacramento, CA 95831

15 **Registered Nurse License No. 698941**

16 Respondent.

Case No. 2010-176

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation and Petition to
20 Revoke Probation solely in her official capacity as the Interim Executive Officer of the Board of
21 Registered Nursing ("Board"), Department of Consumer Affairs.

22 2. On or about March 1, 2007, the Board issued Registered Nurse License Number
23 698941 (hereinafter "license") to Deborah Montressa Holman ("Respondent") on a probationary
24 basis. On April 19, 2004, pursuant to the Stipulated Settlement and Disciplinary Order adopted
25 by the Board as the Decision in the disciplinary action titled *In the Matter of the Statement of*
26 *Issues Against: Deborah Montressa Holman*, Case No. 2004-167, the Board granted
27 Respondent's application for licensure effective May 19, 2004. The Board also ordered that once
28 the license was issued, it shall immediately be revoked, the order of revocation stayed, and

1 Respondent placed on probation for a period of three (3) years on certain conditions, including
2 those specified below. A true and correct copy of the Board's Decision is attached hereto as
3 Exhibit A and incorporated herein. Respondent's license will expire on June 30, 2010, unless
4 renewed.

5 STATUTORY PROVISIONS

6 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
7 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
8 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
9 Practice Act.

10 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
11 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
12 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
13 (b), the Board may renew an expired license at any time within eight years after the expiration.

14 5. Code section 2761 states, in pertinent part:

15 The board may take disciplinary action against a certified or licensed
16 nurse or deny an application for a certificate or license for any of the following:

17 (a) Unprofessional conduct . . .

18 6. Code section 2762 states, in pertinent part:

19 In addition to other acts constituting unprofessional conduct within the
20 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

21 (a) Obtain or possess in violation of law, or prescribe, or except as
22 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
himself or herself, or furnish or administer to another, any controlled substance as
23 defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Section 4022.

24 7. Code section 4022 states:

25 "Dangerous drug" or "dangerous device" means any drug or device
26 unsafe for self-use in humans or animals, and includes the following:

27 (a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words of similar import.

28 ///

1 (b) Any device that bears the statement: "Caution: federal law restricts
2 this device to sale by or on the order of a -----," "Rx only," or words of similar
3 import, the blank to be filled in with the designation of the practitioner licensed to use
4 or order use of the device.

5 (c) Any other drug or device that by federal or state law can be lawfully
6 dispensed only on prescription or furnished pursuant to Section 4006.

7 COST RECOVERY

8 8. Code section 125.3 provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 DANGEROUS DRUG AT ISSUE

13 9. "Ultram", a brand of tramadol hydrochloride, is a dangerous drug within the meaning
14 of Code section 4022 in that it requires a prescription under federal law.

15 ACCUSATION

16 CAUSE FOR DISCIPLINE

17 (Self-Administration of a Dangerous Drug)

18 10. Respondent is subject to disciplinary action pursuant to Code section 2761,
19 subdivision (a); on the grounds of unprofessional conduct, as defined by Code section 2762,
20 subdivision (a), in that on or about March 26, 2008; Respondent self-administered an unknown
21 quantity of the dangerous drug tramadol without lawful authority therefor, as set forth in
22 paragraph 19 below.

23 PETITION TO REVOKE PROBATION

24 11. Complainant incorporates by reference as if fully set forth herein the allegations
25 contained in paragraphs 1 through 10 of the Accusation.

26 12. Condition 11 of Respondent's probation states that if Respondent violates the
27 conditions of her probation, the Board after giving Respondent notice and an opportunity to be
28 heard, may set aside the stay order and impose the stayed discipline (revocation) of Respondent's
license. If during the period of probation, an accusation or petition to revoke probation has been
filed against Respondent's license or the Attorney General's Office has been requested to prepare

1 an accusation or petition to revoke probation against Respondent's license, the probationary
2 period shall automatically be extended and shall not expire until the accusation or petition has
3 been acted upon by the Board.

4 13. Grounds exist to revoke Respondent's probation and reimpose the order of revocation
5 of her license in that she has violated the conditions of her probation as follows:

6 **FIRST CAUSE TO REVOKE PROBATION**

7 **(Failure to Obey All Laws)**

8 14. Condition 1 of Respondent's probation states, in pertinent part, that Respondent shall
9 obey all federal, state, and local laws.

10 15. Respondent's probation is subject to revocation in that she failed to obey all state
11 laws, as set forth in paragraph 10 above.

12 **SECOND CAUSE TO REVOKE PROBATION**

13 **(Failure to Comply with the Board's Probation Program)**

14 16. Condition 2 of Respondent's probation states, in pertinent part, that Respondent shall
15 fully comply with the conditions of the Probation Program established by the Board and
16 cooperate with representatives of the Board in its monitoring and investigation of Respondent's
17 compliance with the Board's Probation Program.

18 17. Respondent's probation is subject to revocation in that she failed to fully comply with
19 the conditions of her Probation Program and cooperate with the Board's representatives in their
20 monitoring and investigation of Respondent's compliance with the program, as set forth in
21 paragraph 15 above, and paragraphs 18 through 21 below.

22 **THIRD CAUSE TO REVOKE PROBATION**

23 **(Failure to Abstain from Use of Psychotropic Drugs Including Alcohol)**

24 18. Condition 15 of Respondent's probation states, in pertinent part, that Respondent
25 shall completely abstain from the possession, injection, or consumption by any route of all
26 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a
27 health care professional legally authorized to do so as part of documented medical treatment.

28 ///

1 19. Respondent's probation is subject to revocation in that she failed to completely
2 abstain from the possession, injection, and consumption of all psychotropic drugs and alcohol by
3 testing positive for tramadol on March 26, 2008, and for alcohol on January 6, 2009, and June 3,
4 2009, during her drug screening program.

5 **FOURTH CAUSE TO REVOKE PROBATION**

6 **(Failure to Submit to Tests and Samples)**

7 20. Condition 16 of Respondent's probation states, in pertinent part, that Respondent, at
8 her expense, shall participate in a random, biological fluid testing or a drug screening program
9 which the Board approves. The length of time and frequency will be subject to approval by the
10 Board. Any confirmed positive finding shall be reported immediately to the Board by the
11 program and Respondent shall be considered in violation of probation. In addition, Respondent,
12 at any time during the period of probation, shall fully cooperate with the Board or any of its
13 representatives, and shall, when requested, submit to such tests and samples as the Board or its
14 representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or
15 other controlled substances.

16 21. Respondent's probation is subject to revocation in that she failed to participate in
17 random, biological fluid testing or drug screens as directed by the Board's representatives on
18 April 14, 2008, July 9, 2008, August 12, 2008, September 15, 2008, October 21, 2008, November
19 11, 2008, and November 24, 2008.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 698941, issued to
24 Deborah Montressa Holman;

25 2. Revoking probation and reimposing the order of revocation of Registered Nurse
26 License Number 698941, issued to Deborah Montressa Holman;

27 ///

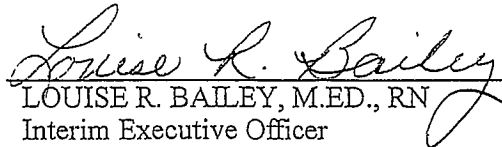
28 ///

1 3. Ordering Deborah Montressa Holman to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 4. Taking such other and further action as deemed necessary and proper.

5
6 DATED: _____

9/28/09



LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

DEBORAH MONTRESSA HOLMAN
27 Valley Crest Court
Sacramento, California 95823

Respondent.

Case No. 2004-167

OAH No. N 2004010537

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 19, 2004

It is so ORDERED April 19, 2004

Sandra R. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 ELENA L. ALMANZO, State Bar No. 131058
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 322-5524
Facsimile: (916) 327-8643

6 Attorneys for Complainant

7
8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues Against:

Case No. 2004-167

11 DEBORAH MONTRESSA HOLMAN
12 27 Valley Crest Court
13 Sacramento, California 95823

OAH No. N 2004010537

14 STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19
20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Elena
24 L. Almanzo, Deputy Attorney General.

25 2. Deborah Montressa Holman (Respondent) is representing herself in this
26 proceeding and has chosen not to exercise her right to be represented by counsel.

27 3. On or about January 29, 2003, the Board of Registered Nursing,
28 Department of Consumer Affairs received an application for a Registered Nurse License from

1 Respondent. On or about July 8, 2003, the Board denied Respondent's application. Respondent
2 appealed.

3 JURISDICTION

4 4. Statement of Issues No. 2004-167 was filed before the Board of Registered
5 Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent.
6 The Statement of Issues and all other statutorily required documents were properly served on
7 Respondent on January 23, 2004. A copy of Statement of Issues No. 2004-167 is attached as
8 exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in Statement of Issues No. 2004-167. Respondent has also carefully read, and understands the
12 effects of this Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Statement of Issues; the right to be
15 represented by counsel at her own expense; the right to confront and cross-examine the witnesses
16 against her; the right to present evidence and to testify on her own behalf; the right to the
17 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
18 the right to reconsideration and court review of an adverse decision; and all other rights accorded
19 by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 Statement of Issues No. 2004-167.

25 9. Respondent agrees that her application for licensure as a Registered Nurse
26 is subject to denial and she agrees to be bound by the Board's imposition of discipline as set forth
27 in the Disciplinary Order below.

28 CONTINGENCY

1 10. This stipulation shall be subject to approval by the Board of Registered
2 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
3 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
4 and settlement, without notice to or participation by Respondent. By signing the stipulation,
5 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
6 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
7 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
8 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
9 between the parties, and the Board shall not be disqualified from further action by having
10 considered this matter.

11 11. The parties understand and agree that facsimile copies of this Stipulated
12 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
13 force and effect as the originals.

14 12. In consideration of the foregoing admissions and stipulations, the parties
15 agree that the Board may, without further notice or formal proceeding, issue and enter the
16 following Disciplinary Order:

17 DISCIPLINARY ORDER

18 IT IS HEREBY ORDERED that the application of Respondent Deborah
19 Montressa Holman for licensure is hereby granted. Upon successful completion of the licensure
20 examination and all other licensing requirements, a license shall be issued to Respondent. Said
21 license shall immediately be revoked, the order of revocation stayed and Respondent placed on
22 probation for a period of three (3) years on the following conditions:

23 Severability Clause. Each condition of probation contained herein is a separate
24 and distinct condition. If any condition of this Order, or any application thereof, is declared
25 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
26 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
27 and enforceable to the fullest extent permitted by law.

28 1. Obey All Laws. Respondent shall obey all federal, state and local laws.

1 A full and detailed account of any and all violations of law shall be reported by Respondent to
2 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
3 compliance with this condition, Respondent shall submit completed fingerprint forms and
4 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
5 as part of the licensure application process.

6 **Criminal Court Orders:** If Respondent is under criminal court orders, including
7 probation or parole, and the order is violated, this shall be deemed a violation of these probation
8 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

9 2. **Comply with the Board's Probation Program.** Respondent shall fully
10 comply with the conditions of the Probation Program established by the Board and cooperate
11 with representatives of the Board in its monitoring and investigation of the Respondent's
12 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
13 within no more than 15 days of any address change and shall at all times maintain an active,
14 current license status with the Board, including during any period of suspension.

15 Upon successful completion of probation, Respondent's license shall be fully
16 restored.

17 3. **Report in Person.** Respondent, during the period of probation, shall
18 appear in person at interviews/meetings as directed by the Board or its designated
19 representatives.

20 4. **Residency, Practice, or Licensure Outside of State.** Periods of
21 residency or practice as a registered nurse outside of California shall not apply toward a reduction
22 of this probation time period. Respondent's probation is tolled, if and when she resides outside
23 of California. Respondent must provide written notice to the Board within 15 days of any change
24 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
25 returning to practice in this state.

26 Respondent shall provide a list of all states and territories where she has ever been
27 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
28 provide information regarding the status of each license and any changes in such license status

1 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
2 new nursing license during the term of probation.

3 **5. Submit Written Reports.** Respondent, during the period of probation,
4 shall submit or cause to be submitted such written reports/declarations and verification of actions
5 under penalty of perjury, as required by the Board. These reports/declarations shall contain
6 statements relative to Respondent's compliance with all the conditions of the Board's Probation
7 Program. Respondent shall immediately execute all release of information forms as may be
8 required by the Board or its representatives.

9 Respondent shall provide a copy of this Decision to the nursing regulatory agency
10 in every state and territory in which she has a registered nurse license.

11 **6. Function as a Registered Nurse.** Respondent, during the period of
12 probation, shall engage in the practice of registered nursing in California for a minimum of 24
13 hours per week for 6 consecutive months or as determined by the Board.

14 For purposes of compliance with the section, "engage in the practice of registered
15 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
16 work in any non-direct patient care position that requires licensure as a registered nurse.

17 The Board may require that advanced practice nurses engage in advanced practice
18 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
19 Board.

20 If Respondent has not complied with this condition during the probationary term,
21 and Respondent has presented sufficient documentation of her good faith efforts to comply with
22 this condition, and if no other conditions have been violated, the Board, in its discretion, may
23 grant an extension of Respondent's probation period up to one year without further hearing in
24 order to comply with this condition. During the one year extension, all original conditions of
25 probation shall apply.

26 **7. Employment Approval and Reporting Requirements.** Respondent
27 shall obtain prior approval from the Board before commencing or continuing any employment,
28 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all

1 performance evaluations and other employment related reports as a registered nurse upon request
2 of the Board.

3 Respondent shall provide a copy of this Decision to her employer and immediate
4 supervisors prior to commencement of any nursing or other health care related employment.

5 In addition to the above, Respondent shall notify the Board in writing within
6 seventy-two (72) hours after she obtains any nursing or other health care related employment.

7 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
8 terminated or separated, regardless of cause, from any nursing, or other health care related
9 employment with a full explanation of the circumstances surrounding the termination or
10 separation.

11 8. **Supervision.** Respondent shall obtain prior approval from the Board
12 regarding Respondent's level of supervision and/or collaboration before commencing or
13 continuing any employment as a registered nurse, or education and training that includes patient
14 care.

15 Respondent shall practice only under the direct supervision of a registered nurse
16 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
17 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
18 are approved.

19 Respondent's level of supervision and/or collaboration may include, but is not
20 limited to the following:

21 (a) Maximum - The individual providing supervision and/or collaboration is
22 present in the patient care area or in any other work setting at all times.

23 (b) Moderate - The individual providing supervision and/or collaboration is in
24 the patient care unit or in any other work setting at least half the hours Respondent works.

25 (c) Minimum - The individual providing supervision and/or collaboration has
26 person-to-person communication with Respondent at least twice during each shift worked.

27 (d) Home Health Care - If Respondent is approved to work in the home health
28 care setting, the individual providing supervision and/or collaboration shall have person-to-

1 person communication with Respondent as required by the Board each work day. Respondent
2 shall maintain telephone or other telecommunication contact with the individual providing
3 supervision and/or collaboration as required by the Board during each work day. The individual
4 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
5 site visits to patients' homes visited by Respondent with or without Respondent present.

6 9. **Employment Limitations.** Respondent shall not work for a nurse's
7 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
8 traveling nurse, or for an in-house nursing pool.

9 Respondent shall not work for a licensed home health agency as a visiting nurse
10 unless the registered nursing supervision and other protections for home visits have been
11 approved by the Board. Respondent shall not work in any other registered nursing occupation
12 where home visits are required.

13 Respondent shall not work in any health care setting as a supervisor of registered
14 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
15 nurses and/or unlicensed assistive personnel on a case-by-case basis.

16 Respondent shall not work as a faculty member in an approved school of nursing
17 or as an instructor in a Board approved continuing education program.

18 Respondent shall work only on a regularly assigned, identified and predetermined
19 worksite(s) and shall not work in a float capacity.

20 If Respondent is working or intends to work in excess of 40 hours per week, the
21 Board may request documentation to determine whether there should be restrictions on the hours
22 of work.

23 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
24 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
25 than six months prior to the end of her probationary term.

26 Respondent shall obtain prior approval from the Board before enrolling in the
27 course(s). Respondent shall submit to the Board the original transcripts or certificates of
28 completion for the above required course(s). The Board shall return the original documents to

Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

13. **Physical Examination.** Within 45 days of the effective date of this Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the Respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If

1 medically determined, a recommended treatment program will be instituted and followed by the
2 Respondent with the physician, nurse practitioner, or physician assistant providing written
3 reports to the Board on forms provided by the Board.

4 If Respondent is determined to be unable to practice safely as a registered nurse,
5 the licensed physician, nurse practitioner, or physician assistant making this determination shall
6 immediately notify the Board and Respondent by telephone, and the Board shall request that the
7 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
8 shall immediately cease practice and shall not resume practice until notified by the Board.
9 During this period of suspension, Respondent shall not engage in any practice for which a license
10 issued by the Board is required until the Board has notified Respondent that a medical
11 determination permits Respondent to resume practice. This period of suspension will not apply
12 to the reduction of this probationary time period.

13 If Respondent fails to have the above assessment submitted to the Board within
14 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
15 practice until notified by the Board. This period of suspension will not apply to the reduction of
16 this probationary time period. The Board may waive or postpone this suspension only if
17 significant, documented evidence of mitigation is provided. Such evidence must establish good
18 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
19 provided. Only one such waiver or extension may be permitted.

20 **14. Participate in Treatment/Rehabilitation Program for Chemical**
21 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
22 period or shall have successfully completed prior to commencement of probation a Board-
23 approved treatment/rehabilitation program of at least six months duration. As required, reports
24 shall be submitted by the program on forms provided by the Board. If Respondent has not
25 completed a Board-approved treatment/rehabilitation program prior to commencement of
26 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
27 a program. If a program is not successfully completed within the first nine months of probation,
28 the Board shall consider Respondent in violation of probation.

1 Based on Board recommendation, each week Respondent shall be required to
2 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
3 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
4 by the Board. If a nurse support group is not available, an additional 12-step meeting or
5 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
6 such attendance to the Board during the entire period of probation. Respondent shall continue
7 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
8 mental health examiner and/or other ongoing recovery groups.

9 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
10 shall completely abstain from the possession, injection or consumption by any route of all
11 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a
12 health care professional legally authorized to do so as part of documented medical treatment.
13 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the
14 prescribing health professional, a report identifying the medication, dosage, the date the
15 medication was prescribed, the Respondent's prognosis, the date the medication will no longer
16 be required, and the effect on the recovery plan, if appropriate.

17 Respondent shall identify for the Board a single physician, nurse practitioner or
18 physician assistant who shall be aware of Respondent's history of substance abuse and will
19 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
20 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
21 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
22 condition. If any substances considered addictive have been prescribed, the report shall identify a
23 program for the time limited use of any such substances.

24 The Board may require the single coordinating physician, nurse practitioner, or
25 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
26 addictive medicine.

27 **16. Submit to Tests and Samples.** Respondent, at her expense, shall
28 participate in a random, biological fluid testing or a drug screening program which the Board

1 approves. The length of time and frequency will be subject to approval by the Board.
2 Respondent is responsible for keeping the Board informed of Respondent's current telephone
3 number at all times. Respondent shall also ensure that messages may be left at the telephone
4 number when she is not available and ensure that reports are submitted directly by the testing
5 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
6 to the Board by the program and Respondent shall be considered in violation of probation.

7 In addition, Respondent, at any time during the period of probation, shall fully
8 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
9 tests and samples as the Board or its representatives may require for the detection of alcohol,
10 narcotics; hypnotics, dangerous drugs, or other controlled substances.

11 If Respondent has a positive drug screen for any substance not legally authorized
12 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
13 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
14 from practice pending the final decision on the petition to revoke probation or the accusation.
15 This period of suspension will not apply to the reduction of this probationary time period.

16 If Respondent fails to participate in a random, biological fluid testing or drug
17 screening program within the specified time frame, Respondent shall immediately cease practice
18 and shall not resume practice until notified by the Board. After taking into account documented
19 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
20 Board may suspend Respondent from practice pending the final decision on the petition to
21 revoke probation or the accusation. This period of suspension will not apply to the reduction of
22 this probationary time period.

23 17. **Mental Health Examination.** Respondent shall, within 45 days of the
24 effective date of this Decision, have a mental health examination including psychological testing
25 as appropriate to determine her capability to perform the duties of a registered nurse. The
26 examination will be performed by a psychiatrist, psychologist or other licensed mental health
27 practitioner approved by the Board. The examining mental health practitioner will submit a
28 written report of that assessment and recommendations to the Board. All costs are the

1 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
2 result of the mental health examination will be instituted and followed by Respondent.

3 If Respondent is determined to be unable to practice safely as a registered nurse,
4 the licensed mental health care practitioner making this determination shall immediately notify
5 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
6 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
7 practice and may not resume practice until notified by the Board. During this period of
8 suspension, Respondent shall not engage in any practice for which a license issued by the Board
9 is required, until the Board has notified Respondent that a mental health determination permits
10 Respondent to resume practice. This period of suspension will not apply to the reduction of this
11 probationary time period.

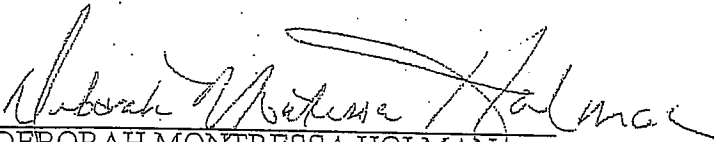
12 If Respondent fails to have the above assessment submitted to the Board within
13 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
14 practice until notified by the Board. This period of suspension will not apply to the reduction of
15 this probationary time period. The Board may waive or postpone this suspension only if
16 significant, documented evidence of mitigation is provided. Such evidence must establish good
17 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
18 provided. Only one such waiver or extension may be permitted.

19 **18. Therapy or Counseling Program.** Respondent, at her expense, shall
20 participate in an on-going counseling program until such time as the Board releases her from this
21 requirement and only upon the recommendation of the counselor. Written progress reports from
22 the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my application for a Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 1-4-04

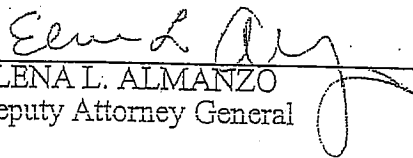

DEBORAH MONTRESSA HOLMAN
Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
4 Affairs.

5
6 DATED: 2/10/04

7 BILL LOCKYER, Attorney General
8 of the State of California

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10 
11 ELENA L. ALMANZO
12 Deputy Attorney General

13 Attorneys for Complainant

14 holman.stip.wpd
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Exhibit A

Statement of Issues No. 2004-167

BILL LOCKYER, Attorney General
of the State of California
ELENA L. ALMANZO, State Bar No. 131058
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 322-5524
Facsimile: (916) 327-8643

Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

Case No. 2004-167

DEBORAH MONTRESSA HOLMAN,
aka DEBORAH M. HOLMAN
27 Valley Crest Court
Sacramento, California 95823

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about January 29, 2003, the Board of Registered Nursing, Department of Consumer Affairs received an application for a Registered Nurse License from Deborah Montressa Holman (Respondent). On or about January 9, 2003, Deborah Montressa Holman certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on July 8, 2003.

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws.

1 All section references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 2736 of the Business and Professions Code (Code) provides, in
4 pertinent part, that the Board of Registered Nursing (Board) may deny a license when it finds that
5 the applicant has committed any acts constituting grounds for denial of licensure under section
6 480 of that Code.

7 5. Section 480 of the Code states:

8 "(a) A board may deny a license regulated by this code on the grounds
9 that the applicant has one of the following:

10 "(1) Been convicted of a crime. A conviction within the meaning of
11 this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
12 Any action which a board is permitted to take following the establishment of a conviction may be
13 taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on
14 appeal, or when an order granting probation is made suspending the imposition of sentence,
15 irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

16 "(2) Done any act involving dishonesty, fraud or deceit with the intent
17 to substantially benefit himself or another, or substantially injure another; or

18 "(3) Done any act which if done by a licensee of the business or
19 profession in question, would be grounds for suspension or revocation of license.

20 "The board may deny a license pursuant to this subdivision only if the
21 crime or act is substantially related to the qualifications, functions or duties of the business or
22 profession for which application is made.

23 "(b) Notwithstanding any other provision of this code, no person shall
24 be denied a license solely on the basis that he has been convicted of a felony if he has obtained a
25 certificate of rehabilitation under section 4852.01 and following of the Penal Code or that he has
26 been convicted of a misdemeanor if he has met all applicable requirements of the criteria of
27 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering
28 the denial of a license under subdivision (a) of section 482.

1 "(c) A board may deny a license regulated by this code on the ground
2 that the applicant knowingly made a false statement of fact required to be revealed in the
3 application for such license."

4 6. Section 2761 of the Code states in pertinent part:

5 "The board may take disciplinary action against a certified or licensed nurse or
6 deny an application for a certificate or license for any of the following:

7 "(a) Unprofessional conduct, which includes, but is not limited to, the
8 following:

9 "(4) Denial of licensure, revocation, suspension, restriction, or any other
10 disciplinary action against a health care professional license or certificate by another state or
11 territory of the United States, by any other government agency, or by another California health
12 care professional licensing board. A certified copy of the decision or judgment shall be
13 conclusive evidence of that action.

14 "(f) Conviction of a felony or of any offense substantially related to the
15 qualifications, functions, and duties of a registered nurse, in which event the record of the
16 conviction shall be conclusive evidence thereof.
17 for minimizing the risks of transmission."

18 7. Section 2762 of the Code states in pertinent part:

19 "In addition to other acts constituting unprofessional conduct within the meaning
20 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
21 under this chapter to do any of the following:

22 "(b) Use any controlled substance as defined in Division 10 (commencing with
23 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
24 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
25 injurious to himself or herself, any other person, or the public or to the extent that such use
26 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
27 license.

28 ///

1 "(c) Be convicted of a criminal offense involving the prescription,
2 consumption, or self-administration of any of the substances described in subdivisions (a) and (b)
3 of this section, or the possession of, or falsification of a record pertaining to, the substances
4 described in subdivision (a) of this section, in which event the record of the conviction is
5 conclusive evidence thereof.

6 "(d) Be committed or confined by a court of competent jurisdiction for
7 intemperate use of or addiction to the use of any of the substances described in subdivisions (a)
8 and (b) of this section, in which event the court order of commitment or confinement is prima
9 facie evidence of such commitment or confinement.

10 FIRST CAUSE FOR DENIAL OF APPLICATION

11 (Criminal Conviction)

12 8. Respondent's application is subject to denial under sections 480 (a) (1) and
13 2761(f) of the Code in that on or about June 30, 1997, in a criminal proceeding entitled *People v.*
14 *Deborah Montressa Holman* in Tulare County Municipal Court District (Visalia Division), Case
15 Number CR-0033965, Respondent was convicted by her plea of nolo contendere of violating
16 Welfare and Institutions Code section 10980(c) (2) (aid by misrepresentation). The
17 circumstances which are substantially related to the duties of a registered nurse are as follows:

18 a. On or about January 1, 1993 and continuing to August 31, 1993,
19 respondent wilfully, and unlawfully and means of false statements, representations,
20 impersonations or other fraudulent device, obtained and retained aid under the provision of the
21 Welfare and Institutions Code, in the amount of six thousand two hundred fifty-four dollars
22 (\$6,254.00), for herself or for her child, when not entitled thereto.

23 b. On or about June 30, 1997, respondent was sentenced to five years
24 probation with terms which included 180 days of county jail, restitution in the amount of \$6,254
25 and a fine of \$200, and a requirement that respondent seek and maintain employment.

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1 b. On or about April 14, 1987, respondent was sentenced to three
2 years summary probation with terms which included 16 days of county jail, a fine of \$816, a
3 license restriction for 90 days, subject to a blood alcohol chemical test when offered by a peace
4 officer, obey all laws.

5
6 FIFTH CAUSE FOR DENIAL OF APPLICATION

7 (Use of Alcohol)

8 11. Grounds exist to deny respondent's application under section 2762 (a) in
9 of the Code in that she used alcohol in a manner to an extent or in a manner which was
10 dangerous or injurious to herself or the public as set forth in paragraphs 9 and 10, above.

11 FOURTH CAUSE FOR DENIAL OF APPLICATION

12 (Dishonest, Fraudulent, or Deceitful Act)

13 12. Grounds exist to deny respondent's application under section 480 (a) (2)
14 of the Code in that she has committed an act involving dishonesty, fraud, or deceit with the intent
15 to substantially benefit herself or another, or substantially injure another, by failing to indicate in
16 an application licensure submitted to the Board for Vocational Nursing and Psychiatric
17 Technicians on or about May 12, 1997, the conviction for driving under the influence of alcohol
18 or drugs as described above in paragraph 10 and in respondent's application for re-examination
19 submitted to the Board for Vocational Nursing and Psychiatric Technicians on or about May 27,
20 1999, she failed to indicate the conviction for welfare fraud as described in paragraph 8 above.

21 FIFTH CAUSE FOR DENIAL OF APPLICATION

22 (Denial of Licensure by other California Board)

23 13. Grounds exist to deny respondent's application under section 2761 (a) (4)
24 of the Code in that she was denied licensure as a licensed vocational nurse by the Board of
25 Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, State of
26 California in Case No. 6247 in a decision which became effective on February 18, 2001.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Deborah Montressa Holman for a registered nurse license;

2. Taking such other and further action as deemed necessary and proper.

DATED: 12/31/03


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant